

**AMENDMENTS TO THE DRAWINGS:**

Please replace the figures presently on file with the attached replacement figures.

Attachments: Replacement Sheets including 2 sheets with FIG. 1A on sheet 1/2, and FIG 1B on sheet 2/2.

## **REMARKS**

### **STATUS OF THE CLAIMS**

Claims 1, 3, 5-6, 9-15 and 18-25 are pending. Claims 1, 2-13, and 18-23 have been amended to correct grammatical and spelling errors. Claims 2, 4, and 7-8 have been canceled. Claim 1 has been amended to further define the leukocyte stimulation matrix.

Support for this amendment can be found in original claims 2, 4, and 7-8, and the originally filed specification, for example at page 5, first paragraph, to page 6, third paragraph, and page 12, last paragraph to page 14, second paragraph. Claims 14-15, 24, and 25 have been withdrawn as directed to non-elected subject matter. No new matter has been added.

### **OBJECTIONS TO CLAIMS 4-6**

In the Office Action, the Examiner objected to claims 4-6 for reciting non-elected embodiments. See page 4 of the Office Action. However, Applicant respectfully submits that claims 4-6 were elected in the Response to Restriction Requirement submitted February 11, 2008. Therefore, claims 4-6 are recite elected embodiments. Reconsideration and withdrawal of the objection are respectfully requested.

### **OBJECTION TO DRAWINGS**

In the Office Action, the Examiner objected to the drawings because "Figures are poor quality and slanted." See *id.* Applicant has submitted herewith replacement figures. See attached Replacement Sheets. Therefore, the objection is moot. Reconsideration and withdrawal of the objection are respectfully requested.

## **REJECTION UNDER 35 U.S.C. §112**

### **Rejection under 35 U.S.C. §112, first paragraph**

In the Office Action, the Examiner rejected claims 1-13 and 18-23 under 35 U.S.C. §112, first paragraph. See page 6 of the Office Action. The Examiner stated his arguments in paragraph 2 of item 15 on pages 6-7 of the Office Action. Applicant disagrees with the Examiner's position; however, in the interest of advancing prosecution, claim 1 has been amended to further define components (a), (b), and (c).

With respect to the Examiner's position on page 7 of the Office Action that "the specification discloses PEG is a mandatory components [sic] of the soluble matrix," Applicant disagrees. Applicant would like to point out that the specification provides that PEG is a mandatory component in an embodiment. In other embodiments, the soluble matrix can be made of long chain sugar compounds, such as starch, cellulose, and/or glycogen, and PEG. See page 7 of the specification. The Examiner is reminded that it is improper to import claim features from the specification. MPEP 2111.01(II).

Moreover, with respect to the Examiner's position on page 8 of the Office Action that "only leukocyte stimulation matrix comprising the specific carrier, the specific soluble matrix and the specific CMV viral antigen that stimulate leukocyte meets the written description provision..." the Examiner is reminded that a claim is not limited to the embodiments described in the specification. See *id.* "Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment." *Superguide*

*Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004). See also *Liebel-Flarsheim Co. v. Medrad Inc.*, 358 F.3d 898, 906, 69 USPQ2d 1801, 1807 (Fed. Cir. 2004)(discussing recent cases wherein the court expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment). Reconsideration and withdrawal of the rejection are respectfully requested.

*Rejection under 35 U.S.C. §112, second paragraph*

The Examiner has also rejected claims 8, 11, and 22 under 35 U.S.C. §112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See *id.* at page 9. Claim 8 has been amended to remove reference to "coupling component."

Applicant disagrees with the Examiner's position regarding claims 11 and 22; however, in the interest of advancing prosecution, claims 11 and 22 have been amended to recite "a sugar compound selected from the group consisting of starch, cellulose, and glycogen". Reconsideration and withdrawal of the rejection are respectfully requested.

**REJECTIONS UNDER 35 U.S.C. §102**

*A. Rejection in light of U.S. Patent No. 5,529,777*

The Examiner rejected claims 1-7 and 10 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,529,777 to Andrianov et al. (hereinafter "Andrianov"). See page 9 of the Office Action. Claims 2, 4, 7, and 10 have been canceled, thereby rendering their rejections moot.

Applicants note that the Examiner did not reject claim 8, the subject matter of which has been incorporated into independent claim 1. Claims 3 and 5-6 depend from independent claim 1 and are patentable for the same reasons as claim 1. Therefore, the rejection is moot. Applicant respectfully requests reconsideration and withdrawal of the rejection.

B. Rejection in light of WO 2004/006951

The Examiner also rejected claims 1, 4-6, 12-13, 18, and 23 under 35 U.S.C. §102(b) as being anticipated by WO 2004/006951 to Schneck et al. (hereinafter "Schneck"). See *id.* at page 10. Claim 4 has been cancelled, thereby rendering its rejection moot.

Applicants note that the Examiner did not reject claim 7, the subject matter of which has been incorporated into independent claim 1. Claims 5-6, 12-13, 18, and 23 depend from independent claim 1 and are patentable for the same reasons as claim 1. Therefore, the rejection is moot. Applicants respectfully request reconsideration and withdrawal of the rejection.

B. Rejection in light of U.S. Patent No. 5,663,051

The Examiner rejected claims 1-3, 7-9, 12-13, 21, and 23 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,663,051 to Vlasselaer (hereinafter "Vlasselaer"). See *id.* Claims 2, 7, and 8 have been canceled, thereby rendering their rejections moot.

Applicants note that the Examiner did not reject claim 4, the subject matter of which has been incorporated into independent claim 1. Claims 3, 9, 12-13, 21, and 23 depend from independent claim 1 and are patentable for the same reasons as claim 1.

Therefore, the rejection is moot. Applicants respectfully request reconsideration and withdrawal of the rejection.

### **REJECTIONS UNDER 35 U.S.C. §103**

#### **A. *Rejection in light of Andrianov in view of WO 96/27657***

The Examiner rejected claims 1, 7, 19, and 20 under 35 U.S.C. §103(a) as being "anticipated by [*Andrianov*] in view of WO 96/27657" to *Cima et al.* (hereinafter "*Cima*"). See page 11 of the Office Action. Applicant will assume for responding herein that the Examiner rejected the claims as being obvious in light of *Andrianov* in view of *Cima* (and not anticipated by the cited references), as the rejection is under 35 U.S.C. §103(a) and not §102(b).

As discussed above, the Examiner did not reject claim 8, the subject matter of which has been incorporated into independent claim 1. In particular, *Andrianov* fails to teach or suggest at least one coupling component, much less one selected from the group consisting of cyanogen bromide, cyanoboro hydride, agarose, agarose derivatives, silane, silane derivatives, and combinations thereof.

*Cima* does not overcome this deficiency. *Cima* teaches attachment of growth effector molecules to particular surfaces via a multitude of attachment agents and teaches that a preferred attachment agent is glutaraldehyde. See page 12, lines 6-9. Moreover, none of the examples in *Cima* teach the use of any of the claimed coupling agents, e.g., cyanogen bromide, cyanoboro hydride, agarose, agarose derivatives, silane, silane derivatives, and combinations thereof. For at least the foregoing reasons, the present invention is unobvious in light of *Andrianov* in view of *Cima*. Applicant respectfully requests reconsideration and withdrawal of the rejection.

B. Rejection in light of Vlasselaer

The Examiner also rejected claims 1, 10, 11, and 22 under 35 U.S.C. §103(a) as being unpatentable over *Vlasselaer*. See page 12 of the Office Action. Claim 10 has been cancelled, thereby rendering its rejection moot. Moreover, as discussed above, the Examiner did not reject claim 8, the subject matter of which has been incorporated into independent claim 1. In particular, *Vlasselaer* fails to teach or suggest at least one coupling component, much less one selected from the group consisting of cyanogen bromide, cyanoboro hydride, agarose, agarose derivatives, silane, silane derivatives, and combinations thereof.

The Examiner argued that *Vlasselaer* teaches "a coupling agent such as silane group with alkyl trimethoxy silane to the silica particle." See *id.* at page 11. Applicant respectfully submits that the Examiner has mischaracterized the teachings of the reference. *Vlasselaer* teaches that an apparatus designed for separating cell populations by density methods. See col. 2, lines 8-9. The reference teaches that a cell separation material is a density gradient material, such as organosilanized colloidal silica (OCS) particle suspension. See col. 13, lines 13-63. Thus, the reference teaches that silanized material can be used as a density gradient material for separating cell populations. However, the reference fails to teach or suggest at least one coupling component for mediating the binding between the carrier and the at least one component for generating a leukocyte stimulation and/or the induction of an immunological tolerance, much less one selected from the group consisting of cyanogen bromide, cyanoboro hydride, agarose, agarose derivatives, silane, silane derivatives, and combinations thereof.

For at least the foregoing reasons, the present invention is unobvious in light of *Vlasselaer*. Applicant respectfully requests reconsideration and withdrawal of the rejection.

**CONCLUSION**

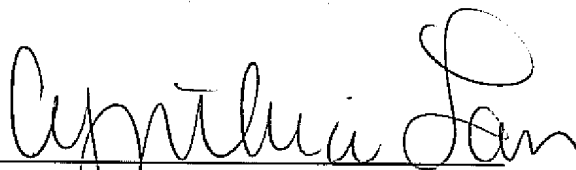
In view of the foregoing amendments and remarks, Applicant respectfully requests the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to deposit account 50-2961.

Respectfully submitted,

Dated: October 1, 2008

By: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "Cynthia Lan", written over a horizontal line.

Cynthia Lan  
Reg. No. 62,960